IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

CIVIL WRIT No. 3462 of 1995

LUCKY MARBLE
V/S
STATE & ORS

Mr. RAJAT DAVE, for the appellant / petitioner

Mr. OP BOOB, AGA, for the respondent

Date of Order : 11.5.2007

HON'BLE SHRI N P GUPTA,J.

ORDER

It is contended by learned counsel for the petitioner that the present writ petition is covered by the order of this Court dated 21.7.1997 passed in bunch of writ petitions led by S.B.C.W.P.No.3567/95-M/s.Mahavir Green Marbles Vs. State of Raj. & Ors., whereby the petitioner was directed to file affidavit, and reply to the application of Zila Parishad, copy of the application was ordered to be provided to the petitioner within 15 days from the date of submission of the copy of that order by the Collector, and reply to the application and affidavit would be filed by the petitioner within one month thereafter, and the Collector was directed to pass fresh order in accordance with law after hearing the parties.

To this, learned counsel for the respondent submits that in that case the only question was about the

land having been allotted for residential purposes, and it being used for commercial purposes, and that the notice was given only in M/s.Mahavir Green Marble's case, and in other cases notice was not given to the petitioner despite the counsel appearing before the Collector praying for the same. While in the present case, the petitioner was represented before the Collector, and apart from the fact, that in the present case also, the land was granted Patta for residential purposes, but it is being used for commercial purposes, it is also the allegation that the plot was given for a sum of Rs.301/- by the Gram Panchayat without following the procedure prescribed by law, as it was neither auctioned, nor it was given for proper price, and the requisite permissions were also not obtained, and therefore, the matter need not be remanded.

In my view, it appears that number of cases were decided by the learned Collector on that day, and in that process, this matter also happened to be decided. In that view of the matter, I think it appropriate to remand this matter also to the learned Collector.

Accordingly, the writ petition is allowed. The order of the Collector dated 5.8.95, Annex.5 is set aside, and the matter is remanded back to the learned Collector. It is clarified that apart from the aspect of user of the land for commercial purposes against it having been granted

for residential purposes, the learned Collector will reexamine all other aspects of the matter also, and pass a fresh order in accordance with law. The petitioner is directed to appear before the learned Collector on 9th July 2007. It is clarified that if the petitioner fails to appear before the learned Collector on 9th July 2007, this writ petition will automatically stand dismissed without reference to the Court.

(N P GUPTA),J.

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